

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.26 OF 2011

The Appellate Authority & Chairman  
Shikshan Prasarak Mandali,  
S.P. College Campus, Tilak Road,  
Pune

The Public Information Officer &  
Secretary, Shikshan Prasarak Mandli,  
S.P. College Campus, Tilak Road,  
Pune.

.. Petitioners

Versus

1] The State Information Commissioner,  
Maharashtra State Information Commission

2] Balchandra Vasudev Radkar,  
Adult, Occupation, Advocate,  
R/o.Kayur, Plot No.13, Sunitha Society,  
Gulavani Maharaj Road, Erandvane,  
Pune.

.. Respondents

ALONG WITH

WRIT PETITION NO.27 OF 2011

The Appellate Authority & Chairman  
Shikshan Prasarak Mandali,  
S.P. College Campus, Tilak Road,  
Pune

The Public Information Officer &

Secretary, Shikshan Prasarak Mandli,  
S.P. College Campus, Tilak Road,  
Pune.

.. Petitioners

Versus

1] The State Information Commissioner,  
Maharashtra State Information Commission

2] Balasaheb Baburao Jambhulkar  
R/o."Draupada", Plot No.72,  
Rao Colony, Jain School Road,  
Talegaon Dabhade, Taluka Mawal,  
Dist. Pune.

.. Respondents

WRIT PETITION NO.28 OF 2011

The Appellate Authority & Chairman  
Shikshan Prasarak Mandali,  
S.P. College Campus, Tilak Road,  
Pune

The Public Information Officer &  
Secretary, Shikshan Prasarak Mandli,  
S.P. College Campus, Tilak Road,  
Pune.

.. Petitioners

Versus

1] The State Information Commissioner,  
Maharashtra State Information Commission

2] Balasaheb Baburao Jambhulkar  
R/o."Draupada", Plot No.72,  
Rao Colony, Jain School Road,

Talegaon Dabhade, Taluka Mawal,  
Dist. Pune.

.. Respondents

WRIT PETITION NO.29 OF 2011

The Appellate Authority & Chairman  
Shikshan Prasarak Mandali,  
S.P. College Campus, Tilak Road,  
Pune

The Public Information Officer &  
Secretary, Shikshan Prasarak Mandli,  
S.P. College Campus, Tilak Road,  
Pune.

.. Petitioners

Versus

1] The State Information Commissioner,  
Maharashtra State Information Commission

2] Balasaheb Baburao Jambhulkar  
R/o."Draupada", Plot No.72,  
Rao Colony, Jain School Road,  
Talegaon Dabhade, Taluka Mawal,  
Dist. Pune.

.. Respondents

WRIT PETITION NO.30 OF 2011

The Appellate Authority & Chairman  
Shikshan Prasarak Mandali,  
S.P. College Campus, Tilak Road,  
Pune

The Public Information Officer &  
Secretary, Shikshan Prasarak Mandli,  
S.P. College Campus, Tilak Road,  
Pune.

.. Petitioners

Versus

1] The State Information Commissioner,  
Maharashtra State Information Commission

2] Balasaheb Baburao Jambhulkar  
R/o."Draupada", Plot No.72,  
Rao Colony, Jain School Road,  
Talegaon Dabhade, Taluka Mawal,  
Dist. Pune.

.. Respondents

Mr.N.V.Bandivadekar with Sagar mane for petitioner No.1 in all  
petitions.

Ms.M.S.Bane, AGP for respondent No.1 in all petitions

Mr.A.V.Anturkar with Amol Gatne i/b. S.B.Deshmukh for  
respondent No.2 in all petitions.

CORAM : S. C. DHARMADHIKARI, J.  
18<sup>th</sup> October 2012.

ORAL ORDER:-

Rule in each of the writ petitions. Respondents waive  
service. Rule made returnable by consent.

1] By these petitions under Article 226 and 227 of the Constitution of India, the petitioners are challenging the orders passed under Right to Information Act, 2005 (RTI Act for short) and particularly holding that they are amenable to that Act and obliged to give information in relation to the affairs of the Educational Institutions, which are managed, administered and controlled by a Public Charitable Trust. The facts and arguments are common. They are taken from Writ Petition No.26 of 2011 for convenience. The respondent No.2 in these petitions sought information with regard to some complaints made to the President of the Institution in March or April 2008. The applicants requested for supply of copies of the complaints and some other documents, particulars of which have been given in the appeal memos. The documents demanded are 18 in number, however, the petitioners in reply to the letters seeking information stated that the Right To Information Act is not applicable. The stand is that Shikshan Prasarak Mandali, is neither aided by the Government nor it comes under section

2(h) of the RTI Act. It is further contended that some of the schools run by the Trust are aided by the Government and such schools may be regarded as a Public Authority. However, all Educational Institutions do not come or fall within the definition of this term.

2] The argument is that the Trust is not a public authority within the meaning of Section 2(h) of the RTI Act. An Educational Institution, managed and administered by the Trust receives the grants and assistance from the Government. It is at best that Institution which can be said to be falling within the definition of the term public authority but certainly this will not take within its import or fold the public charitable trust and which merely manages and administers the Educational Institution. A public charitable trust pure and simple cannot be said to be a public authority under the RTI Act. It cannot be said to be a Authority or body owned or controlled by the State Government.

3] It is not possible to accept either of these contentions for obvious reasons. What has led to this argument is an order which is under challenge in this petition. That order has been passed by the Commissioner of Information, Pune Bench of the Maharashtra State Information Commission. That Authority was dealing with an Appeal challenging an order which was impugned before it. That was an appeal under section 19(3) of the RTI Act. It was the case of the petitioner that it is a public trust registered under the Bombay Public Trust Act, 1950 and Societies Registration Act, 1860. It is running several schools, colleges and other Educational Institutions. Some of these are receiving grants in aid from the State Government while some are run on unaided or no aid or grant basis. The petitioner Trust is not receiving any grant from Government in any form whatsoever. The second respondent to this petition made an application to petitioner No.2, Public Information Officer of the Trust. By that application, he sought information relating to the

Trust. He was informed on 6<sup>th</sup> October 2009 that the provisions of the RTI Act are not applicable to the Trust. Aggrieved and dis-satisfied by this communication, he preferred an appeal before the Appellate Authority under the RTI Act. That appeal also was disposed of by the appellate authority affirming above conclusions.

4] He then filed Second Appeal No.1932 of 2009 on 11<sup>th</sup> December 2009 and which appeal was placed before the Information Commissioner, who by the impugned order dated 13<sup>th</sup> September 2010 allowed it and directed the petitioners to supply the said information.

5] Aggrieved and dis-satisfied with this order that the instant petition is filed in which Mr.Bandivadekar, learned Counsel appearing for petitioner made the aforementioned arguments.

6] On the other hand Mr.Anturkar, learned Counsel appearing



for respondent No.2 submitted that the conclusion of the State Information Commissioner is in consonance with the object and purpose of the RTI Act. The term “public authority” as defined in the RTI Act, would make it clear that first part of it clarifies that all statutory bodies and authorities would be covered and the latter part of it includes bodies owned, controlled or substantially financed by the Government. Now, when non governmental organisations, substantially financed directly or indirectly by funds provided by appropriate government are brought within the ambit and purview of the RTI Act, then, all the more a conclusion is inescapable that the petitioner trust's plea could not have been entertained. It is reading the act as if it applies to an activity or function of a public trust but it will not apply to that public trust even if that activity or function is being performed under its auspices or control. If every single Educational Institution is established, managed, administered and controlled by the Public Trust or societies or bodies of the present nature, then, a defence will always be raised to resist

the application of the Act by urging that the Act will apply to its activity or function and not to it. In the submission of Mr. Anturkar, this will defeat and frustrate the Act. It would run counter to the Legislative intent in making all such bodies, organisations, including non governmental one, accountable and answerable to the public. For all these reasons, he submits that the petition be dismissed. The controversy as noted above is common to all these petitions.

7] To appreciate it, the RTI Act and its provisions will have to be borne in mind. On 15<sup>th</sup> June 2005 Act 22 of 2005 was brought into effect whereunder what is paramount and predominant is conferring of Right to information for citizens. The RTI Act is only giving effect to and implementing Constitutional mandate of "Right to Know" which flows from the right to freedom and expression guaranteed vide Article 19(1)(a) of the Constitution of India, 1950. As would be evident from the preamble itself, some practical regime had to

be created so that the substantive right as conferred by the Constitution of India can be enforced. Therefore, the preamble states that this is an Act for setting out practical regime of right to information for citizens to secure access to the information under the control of public authorities, in order to promote transparency, accountability in the working of every public authority, constitution of the Central Information Commission and State Information Commission and for matters connected therewith or incidental thereto. The preamble then reads thus:-

“AND WHEREAS democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

AND WHEREAS revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

AND WHEREAS it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

NOW, THEREFORE, it is expedient to provide

for furnishing certain information to citizens who desire to have it.”

8] The object and aim of the RTI Act, 2005 was considered by the Hon'ble Supreme Court in the case of Institute of Chartered Accountants Vs. Shaunak H. Satya reported in A.I.R. 2011 S.C. 3336. In that context and dealing with some of the provisions of the Act, it is held as under:-

“18. The information to which RTI Act applies falls into two categories, namely, (I) information which promotes transparency and accountability in the working of every public authority, disclosure of which helps in containing or discouraging corruption, enumerated in clauses (b) and © of section 4(1) of RTI Act; and (ii) other information held by public authorities not falling under section 4(1)(b) and © of the RTI Act. In regard to information falling under the first category, the public authorities owe a duty to disseminate the information wide suo motu to the public so as to make it easily accessible to the public. In regard to information enumerated or required to be enumerated under section 4(1)(b) and © of RTI Act, necessarily and naturally, the competent authorities under the RTI Act, will have to act in a proactive manner so as to ensure accountability and ensure that the fight against corruption goes on

relentlessly. But in regard to other information which do not fall under section 4(1)(b) and © of the Act, there is a need to proceed with circumspection as it is necessary to find out whether they are exempted from disclosure. One of the objects of democracy is to bring about transparency of information to contain corruption and bring about accountability. But achieving this object does not mean that other equally important public interests including efficient functioning of the Governments and public authorities, optimum use of limited fiscal resources, preservation of confidentiality of sensitive information, etc. are to be ignored or sacrificed. The object of RTI Act is to harmonise the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the Governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information, on the other hand. While sections 3 and 4 seek to achieve the first objective, sections 8, 9, 10 and 11 seek to achieve the second objective. Therefore, when section 8 exempts certain information from being disclosed, it should not be considered to be a fetter on the right to information, but as an equally important provision protecting other public interests essential for the fulfilment and preservation of democratic ideals. Therefore, in dealing with information not falling under section 4(1)(b) and ©, the competent authorities under the RTI Act will not read the exemptions in section 8 in a restrictive manner but in a practical manner so that the other public interests

are preserved and the RTI Act attains a fine balance between its goal of attaining transparency of information and safeguarding the other public interests.”

“19. Among the ten categories of information which are exempted from disclosure under section 8 of the RTI Act, six categories which are described in clauses (a), (b), ©, (f), (g) and (h) carry absolute exemption. Information enumerated in clauses (d), (e) and (j) on the other hand get only conditional exemption, that is the exemption subject to the overriding power of the competent authority under the RTI Act in larger public interest, to direct disclosure of such information. The information referred to in clause (i) relates to an exemption for a specific period, with an obligation to make the said information public after such period. The information relating to intellectual property and the information available to persons in their fiduciary relationship, referred to in clauses (d) and (e) of section 8(1) do not enjoy absolute exemption. Though exempted, if the competent authority under the Act is satisfied that larger public interest warrants disclosure of such information, such information will have to be disclosed. It is needless to say that the competent authority will have to record reasons for holding that an exempted information should be disclosed in larger public interest.”

“25. .... Public authorities should realise that in an era of transparency, previous practices of unwarranted secrecy have no longer a place. Accountability and prevention of corruption is

possible only through transparency. Attaining transparency no doubt would involve additional work with reference to maintaining records and furnishing information. Parliament has enacted the RTI Act providing access to information, after great debate and deliberations by the Civil Society and the parliament. In its wisdom, the parliament has chosen to exempt only certain categories of information from disclosure and certain organisations from the applicability of the Act. ....”

“26. We, however, agree that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under section 4(1)(b) and © and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and Government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources.”

When it comes to the definitions, the term “appropriate Government” has been defined and when it is so defined, what is crucial therein are the words, “established, constituted, owned, controlled or substantially financed” by funds provided

directly or indirectly. Therefore, in properly defining a public authority, the word “appropriate government” had to be defined and it is defined in section 2(a) as under:-

“2(a)“appropriate Government” means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly ---

- (i) by the Central Government or the Union territory administration, the Central Government;
- (ii) by the State Government, the State Government;”

9] The term “information” is defined in section 2(f). The later definition and which is directly falling for my interpretation is section 2(h) and the term “right to information” as defined in section 2(j). Both read as under:-

“2(h)“Public authority” means any authority or body or institution of self-government established or constituted –

- (a) by or under the Constitution;
- (b) by any other law made by Parliament;
- © by any other law made by State



Legislature;

(d) by notification issued or order made by the appropriate Government,

and includes any ---

(i) body owned, controlled or substantially financed;

(ii) non-Government organisation substantially financed; directly or indirectly by funds provided by the appropriate Government;"

"2(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to ---

(I) inspection of work, documents, records;

(ii) taking notes, extracts or certified copies of documents or records;

(iii) taking certified samples of material;

(iv) obtaining information in the form of diskettes, floppies, tapes video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;"

10] If Chapter II which provides for right to information and obligations of public authority as contained in sections 3 to 11 is

taken into account, then, it would be clear that what the legislature brought in place and effect is a practical regime. That practical regime means all those who are obliged to provide information should be properly identified. That identification has been done so as to then make it possible for citizens to have this obligation enforced. Therefore, the term public authority in the first part means any authority or body or institution of self government, established or constituted by or under the constitution, by any other law made by the State Legislature and equally by notification issued or order made by appropriate government. The word “establish” means “to bring into existence” whereas the word “constituted” does not necessarily mean “created” or “set up” though it may mean that also. The word is used in a wider significance and would include both the idea of creating or establishing and giving a legal form to the body (see A.I.R. 1959 S.C. 868 M/s.R.C.Mitter and Sons Vs. Commissioner of Income Tax, West Bengal). It includes in the later part “any body owned, controlled or

substantially financed” and equally a non governmental organisation, substantially financed directly or indirectly by funds provided by appropriate government. Thus any body owned, controlled or substantially financed is being brought within the net and purview of the definition so as to clearly set out its duty and obligation to provide information and thereafter, make it possible for the citizens to enforce it. It is very clear that the Legislature did not exhaust itself but included bodies owned, controlled or substantially financed, directly or indirectly by funds provided by appropriate Government. Therefore, to urge that there is no control over the public charitable trust by the appropriate government or if at all there is any control or the element of public dealings come in, that is only in relation to Educational Institutions which are run, administered and managed by the Trust is nothing but an attempt to escape from being covered by the Act and complying with its mandate. A definition as inserted and worded in Section 2(h) of the RTI Act can safely be termed as partly

exhaustive and partly inclusive. The choice of words as noted above would mean enlarging the meaning of the words or phrases occurring in the Statute.

11] The Educational Institutions in this case receive grants in aid from the State. These institutions are run, admittedly, by the petitioners. The petitioner No.1 Trust, manages and administers their affairs and dealings. The Information in relation to these institutions and particularly their finances, management and administration is held by or under the control of the petitioners before me and that is not disputed. If these are the authorities in charge of the Educational Institutions, then, to see them, de hors the Trust or as distinct entities from the Trust would not be proper. In any event, inherent and implicit in this admission is that these educational institutions are bodies controlled or substantially financed by the appropriate Government and, therefore, covered by the definition. However, then to say that in relation to them any

information is sought, it must be sought directly from them and not from the Trust would make it impossible for the citizens to have access to information in relation to these bodies. That is not intended by the Statute nor is the Statute enacted so as to assist anybody much less persons like petitioners to evade disclosure of their affairs and dealings. The petitioner Trust, Shikshan Prasarak Mandali, is a Public Trust registered under the Bombay Public Trust Act, 1950 and which is managing these educational institutions, to which the State funds or grant in aid is admissible, although, it may be received in the name of educational institution. If that is made admissible to it for the purpose of running the Educational Institutions, making provisions for payment of salaries and taking care of expenses in relation to infrastructure etc., then, to my mind, allowing the defence of the nature set up before me would contravene the mandate of the Act and would defeat and frustrate it wholly. There are varied activities which are carried out, may be, philanthropic, charitable and for the benefit and interest of

public through such Trusts, societies and bodies. To then hold that whenever such activities are carried out, the activities are amenable to the RTI Act and if these activities are carried on under the aegis of distinct bodies, one can seek information from such bodies but not from the parental authority means that neither of them would provide information. It is quite likely that educational institution for illustration, in this case, would harass citizens and force them to look to the parental body for information and it may state that it is the Trust's obligation and duty to maintain record and documents in relation to the educational activities. Therefore, to view a school and college or a educational institution in isolation and a separate legal entity and only deal with or approach them would mean that the citizens' right which is paramount and predominant in this case will be rendered nugatory and cannot be exercised and enforced by them. A citizen is not expected to indulge in futile litigation and endless chase in overcoming technical hurdles and obstacles for seeking information. Public

authorities are not obliging him by giving him information because the rule of the day is transparency, accountability in public dealings and public affairs and in relation to public funds. In cases of present nature, the information can be sought by approaching both the educational institutions and the parent entity controlling them or either. However, the duty and obligation to provide information as long as the right to seek it is enforceable by the RTI Act, must be discharged by the Public Authority. In this case, it is the petitioner Trust.

12] In such circumstances, to my mind, the order under challenge does not suffer from any error apparent on the face of the record or perversity, warranting interference in writ jurisdiction. Equally, in the fitness of things when the power has been exercised so as to enforce a obligation flowing from a Constitutional Right guaranteed by Article 19(1)(a), then, it will not be proper to interfere with such exercise in my equitable and discretionary jurisdiction under Article 226 and

227 of the Constitution. Even otherwise, on facts the conclusion of the second appellate authority in the impugned order is based on the materials produced before it. The second appellate authority has scrutinised them very meticulously and properly. It has referred extensively to the Annual Report for the year 2006-07 and the balance sheets. The funds of the petitioners comprise of and consist of examination fees, other educational income, Government Grants. The constitution of the Trust envisages expending these amounts for fulfilling the objects of the Trust. Even if the grants are admissible to the Educational Institutions, the power to utilise them is vested in the managing committee of the Trust. The second appellate authority has found that the amounts are deducted from the grants or public funds for services provided by the Trust to the Educational Institutions. The accounts of the Institutions and the Trust are consolidated and even the audit is single. In these circumstances, there is no reason to differ with the conclusions of the second appellate authority. They are consistent with the



contents of the documents produced on record. A careful and complete scrutiny of the annual accounts, entries therein and the admitted figures is already undertaken. There cannot be a reappraisal of all this in my limited jurisdiction. Suffice it to hold that the segregation of the trust and its activities is impermissible once the establishment, management and administration of the educational institutions is exclusively by the public trust. The Trust as indicated by its name, is established for promoting education in the society. For these reasons, the petitioners' arguments must fail.

13] Reliance is placed upon the judgement of a learned Single Judge in the case of Nagar Yuwak Shikshan Sanstha Nagpur & Anr. Vs. Maharashtra State Information Commission, Vidharbha Region, Nagpur and Anr. (2009(6)Mh.L.J.85). The learned Single Judge was dealing with a petition in which the argument advanced has been noted in para 3. The argument was that petitioner No.1 is a public Trust registered under the provisions

of Bombay Public Trusts Act and the second petitioner in that petition was a unaided Engineering College. Both do not fall within the definition of “Public Authority” as defined under the Right to Information Act.

14] It was said that both of them are not receiving any funds or financial aid from the appropriate Government. With greatest respect in para 3 of the order this argument is noted and equally the other one that reimbursement is made by the Government of the expenses incurred by the petitioners. But that reimbursement is under several schemes meant for the students and not for petitioners, particularly towards fees recoverable from backward class students or other instrumentation provided by the appropriate Government. However, the term “control” that is contemplated in the definition has been construed, again with respect, narrowly and restricted to financial dealings and matters. The word “aid” means to support, help or assist. Aid connotes active support

and assistance. Thus, Aid is a terminology of wide amplitude. “Grant” is but part of it. Succor, anything helpful, to give support to, is aiding. If aid is something more than finance and it can come in all forms, such as making provision for infrastructure and not just assistance by financial means, then, the Legislature in this case did not restrict itself when it uses the term “control”. Therefore, the control or substantial finance, directly or indirectly by funds provided by Government together with the ownership of a body make it a public authority for the purpose of the RTI Act. That is how the same learned Single Judge understood this judgement when he was party to a later judgement and of a Division Bench, in the case of Shikshan Prasarak Mandal & Anr. Vs. State Information Commissioner & Ors. (2010 (6) Mh.L.J.357)

15] To my mind, even if any larger controversy is not to be considered , with great respect, had the attention of the learned Single Judge in the earlier case and equally of the learned

Single Judge in the case of Bhaskarrao Shankarrao Kulkarni Vs. State Information Commissioner, Nagpur reported in 2009 (4) Mh.L.J. 802 and in the case of Dr.Panjabrao Deshmukh Urban Coop.Bank Ltd. Vs. State Information Commissioner, Vidharbha Region & Ors. reported in 2009 (3) Mh.L.J. 364 had been invited to the legislative mandate and the broad terminology as noted above, possibly a different conclusion would have been reached by them. The Legislature has advisedly employed the words “owned”, “controlled” or “substantially financed” in section 2(h) so as to distinguish ownership, control and finance. All three elements have been included but distinctly to define a public authority. If these words are used to cover different aspects in relation to any authority owned, controlled or financed and together with those established or constituted by or under the constitution or law, then, to construe the Statute and the definition restrictively would be doing violence to these plain words.

16] As far as the present case is concerned, on facts one finds that the defence of the petitioners was not tenable. The petitioners do not dispute that they are running a Educational Institution and the financial aid comes to the Trust for the purpose of and for being utilised for the Educational Institutions. If that is an admitted position and that is what is taken into account by the State Information Commissioner and a finding is rendered with regard to petitioners being covered by section 2(h) of the RTI Act, then, the same requires no interference in writ jurisdiction, even if the larger controversy is not decided.

17] In Law Lexicon by Mr.PRamnatha Aiyer while defining the term “control”, its meaning in several contexts and backdrop has been given. In a decision reported in A.I.R. 1984 S.C. 636 (Corporation of the City of Nagpur, Civil Lines Vs. Ramchandra Modak), the Supreme Court holds that the term “control” is of a very wide connotation and amplitude and includes a large

variety of powers which are incidental or consequential to achieve the powers vested in the authority concerned. The word “control” in legal terminology and parlance means “to restrain, to regulate, to govern, to keep under check, to rule and direct, to subject to authority, superintendence”. In A.I.R. 1972 S.C. 1248 (The Shamrao Vithal Cooperative Bank Ltd. Vs. Kasargode Panduranga Mallya), the Hon'ble Supreme Court outlined the meaning of this term in the following words:-

“6. .... The word “control” is synonymous with superintendence, management or authority to direct, restrict or regulate (see p.442 of Words and Phrases (Vol.9) Permanent Edition). Control is exercised by a superior authority in exercise of its supervisory power .....”.

18] Similar is the meaning ascribed or given to this term in a later decision State of Mysore Vs. Allum Karibasappa and Ors.,

reported in A.I.R. 1974 S.C. 1863. Finally in the case of Corporation of the City of Nagpur Vs. Ramchandra G. Modak, A.I.R. 1984 S.C. 636, the Supreme Court in para 4 holds as under:-

“4. It is thus now settled by this Court that the term “control” is of a very wide connotation and amplitude and includes a large variety of powers which are incidental or consequential to achieve the powers vested in the authority concerned. In the aforesaid case, suspension from service pending a disciplinary inquiry has clearly been held to fall within the ambit of the word “control”. On a parity of reasoning, therefore, the plain language of clause (b) of section 59(3) as extracted above irresistibly leads to the conclusions that the Municipal Commissioner was fully competent to suspend the respondents pending a departmental inquiry and hence the order of suspension passed against the respondents by the Municipal Commissioner did not suffer from any legal infirmity. The High Court was, therefore, in error in holding that the order of suspension passed by the Municipal Commissioner was without jurisdiction. In this view of the matter the order of the High Court cannot be maintained and has to be quashed.”

19] What the Supreme Court holds is that “control is exercised by superior authority in exercise of its supervisory

power.” The word is synonymous with superintendence, management or authority to direct, restrict or regulate. Therefore, if this term comprehends all incidental or ancillary powers, then, to hold that the word “control” appearing in section 2(h) has a very narrow and restricted meaning would be doing violence to the plain language of the Statute and interpreting it so, can never be permitted. A somewhat similar view is taken by a Full Bench of the Kelara High Court in the case of Mulloor Rural Cooperative Society Ltd. Vs. State of Kerala and others reported in A.I.R. 2012 Kerala 124 (see para 4)..

20] For the reasons aforestated, this petition fails, Rule is discharged without any costs. The finding and conclusion that the RTI Act is applicable to the petitioners and they are obliged to provide information in relation to its educational institutions is confirmed. However, the applications of the respondent No.2 seeking information are turned down only on the ground of



applicability of the RTI Act. Now, these applications be considered in accordance with the RTI Act and necessary action will have to be taken by the petitioners. That be done within a period of three (3) months from today.

21] At this stage Mr.Bandivadekar appearing for petitioners prays for continuation of the ad-interim order dated 7<sup>th</sup> March 2011 to enable him to approach the higher court. The request is opposed by Mr.Anturkar appearing for contesting respondents. To my mind, since the ad-interim order was in force from March 7, 2011 interest of justice would be served if it is continued for a period of twelve (12) weeks from today.

(S. C. DHARMADHIKARI, J)